



The Mysore Gazette.

Vol. 47.]

PUBLISHED BY AUTHORITY.

[No. 14.

BANGALORE, THURSDAY, APRIL 4, 1912.

PART II.

JUDICIAL DEPARTMENT.

IN THE CHIEF COURT OF MYSORE AT BANGALORE.

CIVIL SIDE.

Rule of Practice No. 151, dated 23rd March 1912.

The following rules in regard to the reception and admission of documents in evidence and their return having received the sanction of Government, are issued for the guidance of all Civil Courts.

The provisions of the Code of Civil Procedure in regard to the reception and admission of documents in evidence are too often either entirely overlooked or very imperfectly complied with. It is often impossible to say what papers on the file constitute the true record. Copies of extracts from public or private records or accounts referred to in the judgment as having been admitted in evidence are frequently incomplete and sometimes altogether wanting.

2. Documentary evidence may be conveniently grouped into three classes representing as many stages in the progress of a suit:—

Class I—Documents upon which the plaintiff sues or relies.—

By Rule 14 of Order VII of the Code of Civil Procedure where a plaintiff sues upon a document, he must produce it with his plaint, and where he relies on any other document, he must enter such document in a list to be attached to the plaint. By Rule 18 of the same order no document which has not been so produced or listed can be received in evidence without the leave of the Court.

Class II—Documents which become material upon the settlement of issues.—

Rule I of Order XIII makes it incumbent on the parties to produce at the first hearing of the suit all documentary evidence on which they intend to rely and all documents which the Court has ordered to be produced.

Class III—Documents which become relevant during the course of a trial, e.g., previous statements put in to contradict or corroborate the testimony of a witness, documents handed to a witness to refresh his memory, documents filed for comparison of handwriting, etc.

3. All documents tendered in evidence shall be accompanied by a list in the following form (Civil Procedure Code, App. H No. 5):—

List of documents produced by plaintiff (or defendant).

(TITLE.)

Number	Description of document	Date (if any) which the document bears	Remarks
1	2	3	4

Signature of party or pleader.....

Every Judicial Officer will provide himself with a rubber stamp of the following pattern:—

V	
Suit No.	of
Filed by	on
.....	
.....	
.....	

As soon as a list is filed, the particulars mentioned in clauses (a), (b) and (c) of Rule 4, sub-rule (1), of Order XIII will be endorsed upon the back of each document. A specimen form of endorsement is appended.

A. B. Vs. C. D.

Suit No. 15 of 1909-10.

Filed by plaintiff on 2nd August 1909.

4. Before a document can be used as evidence it must be either proved or admitted in the manner prescribed by Chapter V of the Evidence Act. It may be pointed out that the expression "proved" as used in this Chapter does not mean conclusively proved, but proved unless and until disproved. The signature of a debtor on a bond is proved by the evidence of any person who deposes to having seen such signature made, and the bond being thus proved is admissible in evidence though the signature in question may subsequently be held to be a forgery. Similarly, a document purporting to be thirty years old which is produced from proper custody may be at once used in evidence though its genuineness may ultimately be disproved.

5. Rule 5 of Order XIII provides for the substitution of copies for originals in the case (1) of a letter book or a shop book or other accounts in current use, (2) of public records; and it gives precise instructions as to the manner in which these copies are to be examined, compared and certified. Whether these books, accounts or records are produced on behalf of a party or in obedience to an order of the Court acting of its own motion, a copy of those entries which are relevant to the case should invariably be required to be furnished so that the proceedings may be complete in themselves.

6. In the case of any document which is considered by the Court to be inadmissible in evidence, the endorsements will be completed as under:—

A. B. Vs. C. D.
 Suit No. 15 of 1909-10.
 Filed by plaintiff on 2nd August 1909.
 Rejected as filed too late.
 Dated 1st October 1909.
 (Signature) _____
 Judge.

A. B. Vs. C. D.
 Suit No. 15 of 1909-10.
 Filed by plaintiff on 2nd August 1909.
 Rejected as unproved.
 Dated 1st October 1909.
 (Signature) _____
 Judge.

A. B. Vs. C. D.
 Suit No. 15 of 1909-10.
 Filed by plaintiff on 2nd August 1909.
 Rejected as irrelevant.
 Dated 1st October 1909.
 (Signature) _____
 Judge.

Documents tendered in evidence but rejected will be returned, either at once or at the conclusion of the trial, to the person by whom they were tendered, who will append his signature in column 4 of the list referred to in paragraph 3 against each document so returned.

7. Immediately on a document being admitted in evidence, the endorsement already referred to will be completed and signed by the Judge. Specimen forms of completed endorsements are subjoined:—

A. B. Vs. C. D.
 Suit No. 15 of 1909-10.
 Filed by plaintiff on 2nd August 1909.
 Attested.
 Exhibit A.
 Dated 1st October 1909.
 (Signature) _____
 Judge.

A. B. Vs. C. D.
 Suit No. 15 of 1909-10.
 Filed by plaintiff on 2nd August 1909.
 Admitted by defendant.
 Exhibit B.
 Dated 1st October 1909.
 (Signature) _____
 Judge.

A. B. Vs. C. D.
 Suit No. 15 of 1909-10.
 Filed by plaintiff on 2nd August 1909.
 Public document.
 Exhibit C.
 Dated 1st October 1909.
 (Signature) _____
 Judge.

When endorsements are stamped on an exhibit, care should be taken to avoid defacing any written or printed matter.

8. Separate lists of the documents admitted in evidence on behalf of each party will be prepared in the following form :—

List of documents admitted in evidence for the plaintiff (or defendant).

Distinguishing letter or number	Description of document	Date of admission	Remarks
1	2	3	4

(Signature)

Judge.

Documents should be entered in these lists in the order in which they are admitted and marked. If any document has been admitted subject to objection, this fact should be noted in the column of remarks.

9. In marking documents, letters may conveniently be used for the plaintiff, and numbers for the defendant. Thus the series of the plaintiff's exhibits will be A. B. C., etc., and of the defendant's exhibits I, II, III. Where defendants put in separate sets of exhibits, each series may be distinguished thus :—1/I, 1/II, 1/III, etc., 2/I, 2/II, 2/III, etc. Where a number of documents of the same nature are admitted, as for example, a series of entries in an account book or of receipts for rent, the whole series should bear one letter or number, a small letter or small number being added to distinguish each paper of the series.

10. It is incumbent on a Court before proceeding to Judgment to finally revise the record on which such judgment is to be based, to see that all documents which have been used as evidence are on the record and to return to the parties any papers still on the record which have not been admitted in evidence.

11. Where documents are unnecessarily filed, the costs incurred in connection therewith should ordinarily be thrown upon the party filing them, irrespective of the result of the suit.

12. The provisions for the return of documents admitted in evidence are contained in Rule 9 of Order XIII. In cases in which an appeal is allowed by law, no document shall be returned until the period allowed for such appeal has elapsed and no appeal has been preferred, or until such appeal, if preferred, has been disposed of, unless the person applying for the return of such document delivers a certified copy to be substituted for the original. The return of any document should be noted in the list referred to in paragraph 8.

13. To every copy of a decree given to the parties to a suit or case there shall be annexed a printed notice in the following form, calling upon them to withdraw their exhibits as soon as the decree shall have become final :—

Notice to take back documents.

In the Court of.....
 Suit No.....of.....
Plaintiff.
Defendant.

The parties in the above suit are hereby required to take back as soon as the decree shall have become final, the documents produced by them which are exhibits in the above case. If they fail to take them back, the documents will be destroyed when the record is destroyed.

Dated.....

Judge.

14. These rules supersede Circular Letter No. 213, dated 20th February 1909.

V. A. RAJARATNA MUDALIAR,
 Registrar.